

United States District Court

for the
Western District of New York

In the Matter of the Search of

(Briefly describe the property to be searched or identify the person by name and address.)

9411 Asbury Road, Apt. #1, Leroy, New York 14482

Case No. 19-MJ-1041

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

9411 Asbury Road, Apt. #1, Leroy, New York 14482

located in the Western District of New York, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachment B, Items to be Searched and Seized

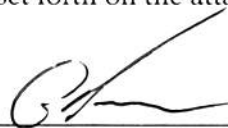
The basis for search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to violations of Title 18, United States Code, Sections 1546(a), 1546(b)(2), and 1028A(a)(1).

The application is based on these facts:

- ☒ continued on the attached sheet.
- ☐ Delayed notice of ____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

GREGORY REED
TASK FORCE OFFICER
HOMELAND SECURITY INVESTIGATIONS

Printed name and title

Sworn to before me and signed in my presence.

Date: March 27, 2019



Judge's signature

JEREMIAH J. McCARTHY
UNITED STATES MAGISTRATE JUDGE

Printed name and Title

City and state: Buffalo, New York

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

I, **Gregory J. Reed**, being duly sworn, do hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Deportation Officer with the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO"). Previously I was employed as an Immigration Enforcement Agent ("IEA") and a Border Patrol Agent with Customs and Border Protection ("CBP") and have been so employed for approximately ten years. I am currently assigned to Homeland Security Investigations ("HSI") in Buffalo, New York, as a Task Force Officer ("TFO"). During my employment with ICE, I have participated in multiple investigations and/or criminal prosecutions concerning worksite enforcement, businesses that employ unauthorized aliens, and possession and use of fraudulent documents. As such, I am a federal law enforcement officer within the meaning of Federal Rule of Criminal Procedure 41; that is, empowered by law to apply for search warrants.

2. This affidavit is submitted in support of an application for a warrant to search the residence located at 9411 Asbury Road, Apt. #1, Leroy, New York 14482 (hereinafter referred to as the "SUBJECT PREMISES"), more fully described in Attachment "A", for evidence of violations of Title 18, United States Code, Section 1546(a) (possession of fraudulent documents), Title 18, United States Code, Section 1546(b)(2) (use of fraudulent

documents for employment), and Title 18, United States Code, Section 1028A(a)(1) (aggravated identity theft). The items to be seized in the SUBJECT PREMISES are more fully described in Attachment "B".

3. This investigation encompasses the participation of several law enforcement agencies, including HSI and ERO operating in the Western District of New York. The investigation to date has utilized a wide variety of law enforcement techniques both overt and covert, including physical surveillance, reviewing employment documents, and interviewing witnesses. I am familiar with the information contained in this affidavit based upon my participation in the investigation, my review of activities related to the investigation, my review of documents obtained as part of this investigation, and information provided to me by other law enforcement officers who have personal knowledge of the events and circumstances described herein. Because this affidavit is submitted for the limited purpose of securing a search warrant, it does not contain all the information that I have learned during the course of this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe that evidence of violations of Title 18, United States Code, Sections 1546(a), 1546(b)(2), and 1028A(a)(1) are presently located at the SUBJECT PREMISES.

4. Based on the facts set forth in this affidavit, I respectfully submit that there is probable cause to believe that there is presently concealed, in the SUBJECT PREMISES, the items described in Attachment B hereto, all of which constitutes evidence, fruits, and instrumentalities of violations of Title 18, United States Code, Sections 1546(a), 1546(b)(2), and 1028A(a)(1).

APPLICABLE LAW

5. This investigation involves the following offenses:

(a) Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained, is in violation of Title 18, United States Code, Section 1546(a);

(b) Whoever uses—an identification document knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor...for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)), is in violation of Title 18, United States Code, Section 1546(b)(2); and

(c) Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years, is in violation of Title 18, United States Code, Section 1028A(a)(1). Title 18, United States Code, Section 1028A(c)(7) includes any provision contained in chapter 75 (relating to passports and visas).

BACKGROUND OF INVESTIGATION AND PROBABLE CAUSE

6. As detailed below, this investigation has determined that probable cause exists to believe that fraudulent documents in the form of a fraudulent Lawful Permanent Resident card/Alien Registration card (I-551) and fraudulent social security card, evidence of violations of Title 18, United States Code, Sections 1546(a), 1546(b)(2), and 1028A(a)(1) are located inside of the SUBJECT PREMISES.

7. In March of 2019, HSI Task Force Officers (“TFOs”) received information from an HSI and ERO confidential source (“CS-1”)¹ that Uber Galileo MACARIO-MORALES is in possession of a fraudulent social security card, that the social security card was last seen inside of MACARIO-MORALES’ residence, and that MACARIO-MORALES is working illegally at Donnan Farms, 2241 York Rd. W., York, New York, 14592.² Uber

¹ CS-1 has provided information that is credible and substantiated by independent investigation. CS-1 has provided information that MACARIO-MORALES is in possession of a fraudulent social security card bearing the name “Galileo Macario”, which CS-1 took a photo of, while in MACARIO-MORALES’ residence, and provided said photo to HSI. Additionally, pursuant to an I-9 audit, agents received a copy of the Form I-9 and photocopy of fraudulent documents (which included a fraudulent lawful permanent resident card and fraudulent social security card) from MACARIO-MORALES’ employer, Donnan Farms, revealing that MACARIO-MORALES not only worked at the farm (as stated by CS-1), but that he submitted this very same fraudulent social security card to his employer for employment eligibility. This further corroborates the information provided by CS-1. CS-1 has an outstanding order of removal and is currently cooperating in the hopes of remaining in the United States.

² Counterfeit social security cards fall within the ambit of Title 18, United States Code, Section 1546(a) because they are evidence of authorized employment in the United States. As held by the Eighth Circuit, “the district court correctly concluded that even an unsigned social security card is a document ‘prescribed by statute or regulation...as evidence of authorized...employment in the United States’ within the meaning of 18 U.S.C. § 1546(a).” United States v. Pool-Chan, 453 F.3d 1092, 1094 (8th Cir. 2006). In that case, the defendant was convicted of possessing a counterfeit social security card in violation of Title 18, United States Code, Section 1546(a).

Galileo MACARIO-MORALES, also known as Galileo Macario, is a native of Mexico, who does not have work authorization, and who was granted Voluntary Departure by an Immigration Judge on February 5, 2019. MACARIO-MORALES was given until June 5, 2019 to leave the United States. Record checks also revealed that MACARIO-MORALES resides at 9411 Asbury Rd., Apt. #1, Leroy, NY, 14482.

8. Approximately one week ago, CS-1 was at the residence of MACARIO-MORALES at 9411 Asbury Rd., Apt. #1, Leroy, NY. While inside of the residence, CS-1 observed a social security card bearing the name "Galileo Macario" with social security number XXX-XX-X510. CS-1 took a photograph of this fraudulent social security card while he was inside of MACARIO-MORALES' residence and provided it to HSI agents and TFOs.

9. On March 26, 2019, HSI agents and TFOs served a subpoena on Donnan Farms requesting any identification provided by MACARIO-MORALES to the farm for purposes of employment, as well as MACARIO-MORALES' Employment Eligibility Verification, I-9 form. A Form I-9 is an employment document that is required to be filled out by all employees and kept on file by employers in the United States.

10. In response to this I-9 audit, Donnan Farms provided a photocopy of a fraudulent Lawful Permanent Resident card/Alien Registration card (I-551) with A-number XXX-XXX-001, bearing the name "Galileo Macario" and MACARIO-MORALES' photograph. The fraudulent Permanent Resident card also included a date of birth of February 24, 1990, which is MACARIO-MORALES' actual date of birth. Donnan Farms

also provided HSI with a photocopy of a counterfeit social security card for MACARIO-MORALES, with the name "Galileo Macario" and social security number XXX-XX-X510.

11. Every alien who lawfully immigrates to the United States has a unique "A-number" assigned to them by the United States Department of Homeland Security. The Department of Homeland Security maintains an "A-file" for each alien. Any document issued for the alien, including a Permanent Resident Alien Card, lists the unique "A-number" for that alien.

12. A Permanent Resident Alien Card serves as proof of the cardholder's lawful resident status within the United States, as well as his or her ability to seek and obtain employment in the United States.

13. According to the official records of the United States Department of Homeland Security, United States Citizenship and Immigration Services ("USCIS"), Alien Registration Number XXX-XXX-001 is not a valid alien registration number. Furthermore, the alien registration card bearing the A-number XXX-XXX-001, bearing a photograph of MACARIO-MORALES, is a counterfeit and fraudulent document, which was not issued by the United States.

14. According to record checks conducted with the Social Security Administration-Office of the Inspector General (OIG), social security number XXX-XX-X510 is a valid social security number; however, it is not assigned to the defendant, Uber Galileo MACARIO-MORALES.

15. Based on my training and experience, and conversations held with Special Agents who have worked similar cases in the past, counterfeit identification documents or fraudulent documents used for employment, or documents used to establish lawful status in the United States, such as social security cards and lawful permanent resident cards, are valuable for individuals illegally present in the United States, or those who do not have work authorization, and therefore maintained by said individuals for substantial periods of time. Based on my training and experience, such individuals will go to great lengths to conceal and protect from discovery, theft, and damage their counterfeit social security cards and counterfeit lawful permanent residence cards. Based on my training and experience, said documents are almost always maintained in a secure location, such as the security of their homes or on their person. Based on my training and experience, the importance and value associated with these documents for someone such as MACARIO-MORALES, and in light of the fact that MACARIO-MORALES used the counterfeit lawful permanent resident card and counterfeit social security card to illegally obtain employment at Donnan Farms, and for all of the foregoing reasons, it is more probable than not that the counterfeit lawful permanent resident and social security cards are being maintained by MACARIO-MORALES at his residence. Based on the foregoing, there is probable cause to believe that Uber Galileo MACARIO-MORALES violated Title 18, United States Code, Sections 1546(a), 1546(b)(2), and 1028A(a)(1), and that the counterfeit social security card and counterfeit lawful permanent resident card/alien registration card related to these violations of federal law may be found in the SUBJECT PREMISES.

PREMISES TO BE SEARCHED AND ITEMS TO BE SEIZED

16. This affidavit is made in support of an application for a search warrant for the premises referred to as the SUBJECT PREMISES, the residence located at 9411 Asbury Road, Apt. #1, Leroy, New York 14482, a detailed description of which is attached hereto in Attachment A with four pictures attached.

17. The residence consists of a house separated into three separate apartments. Your affiant conducted record checks with the Department of Homeland Security database which further confirmed that MACARIO-MORALES' address is 9411 Asbury Road, Apt. #1, Leroy, NY 14482. Additionally, MACARIO-MORALES' Alien's Change of Address Form found in his alien registration file, dated November 10, 2017, further confirms that he lives at 9411 Asbury Road, Apt. #1, Leroy, NY 14482.

18. Based on my training and experience, based on the statements provided by CS-1, based on the information received from Donnan Farms, and based on all of the aforementioned information, it is more probable than not that evidence, property, fruits, and instrumentalities of these offenses, and other items related to these violations of federal law, may be found in the SUBJECT PREMISES.

CONCLUSION

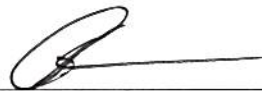
19. In light of the ongoing nature of this investigation, the undersigned respectfully requests that this Affidavit, as well as the accompanying application and this Court's

warrant, be sealed until further order of the Court, except that working copies of such documents should be maintained by the United States Attorney's Office, and may be served upon HSI agents and any other technical, investigative or law enforcement officers assigned to this investigation, as necessary to effectuate the warrant. The contents of these documents reveal information concerning an ongoing investigation. Premature disclosure of the contents of these documents could result in the destruction of evidence, could seriously compromise the safety and security of CS-1, and could impede this investigation by alerting the target of the investigation to the nature of the probe, the techniques employed by law enforcement personnel, and the evidence to date, thus limiting the possible use of the grand jury to develop further admissible evidence in limiting the ability to conduct other search warrants that may be necessary.

20. Accordingly, it is respectfully submitted that probable cause exists to believe that violations of Title 18, United States Code, Section 1546(a), Title 18, United States Code, Section 1546(b)(2), and Title 18, United States Code, Section 1028A(a)(1) have occurred and that property, evidence, fruits, and instrumentalities of these offenses, more fully described in Attachment B of this affidavit, are located in the SUBJECT PREMISES, as described in Attachment A. As such, it is respectfully requested that the attached warrant be issued authorizing the search of the SUBJECT PREMISES.


WHEREFORE, I respectfully request that the Court issue a warrant authorizing agents and officers of Homeland Security Investigations to search the SUBJECT PREMISES, as further described in Attachment A, for the evidence and instrumentalities

of the offenses, as described in Attachment B.



Gregory J. Reed
Task Force Officer
Homeland Security Investigations

Sworn and subscribed to before
me this 29th day of March 2019.



JEREMIAH J. McCARTHY
United States Magistrate Judge

ATTACHMENT A — PREMISES TO BE SEARCHED

a. **SUBJECT PREMISES:** the premises to be searched is located at 9411 Asbury Road, Apt. #1, Leroy, New York 14482.

b. The residence is one of three apartments located in a two-story home. The front of the home has a white porch with a white door. There are two windows on the second story of the house facing the street and above the porch in front of the house has the numbers 9411 displayed. The back of the home consists of three numbered apartments. The residence to be searched has a number one displayed on the left side of the door associated with the residence.





**ATTACHMENT B — DESCRIPTION OF ITEMS TO BE SEARCHED FOR
AND SEIZED**

Items to be searched for and seized are the evidence, fruits, instrumentalities, or contraband relating to violations of Title 18, United States Code, Section 1546(a), Title 18, United States Code, Section 1546(b)(2), and Title 18, United States Code, Section 1028A(a)(1), including, but not limited to, the following:

- a. Counterfeit alien registration cards/lawful permanent resident cards and counterfeit social security cards; and
- b. By this search warrant, your affiant also requests permission to take photographs of any evidentiary items or search venues at the time of the search.

All relating to violations of Title 18, United States Code, Section 1546(a), Title 18, United States Code, Section 1546(b)(2), and Title 18, United States Code, Section 1028A(a)(1).